

In subsection (i), the words “the provisions of” are omitted as unnecessary. Clause (3) is substituted for “the Federal Tort Claims Act (60 Stat. 842-847), as amended,” to reflect the correct citation of that Act.

AMENDMENTS

1998—Subsecs. (i), (j). Pub. L. 105-261 added subsec. (i) and redesignated former subsec. (i) as (j).

1996—Subsec. (h). Pub. L. 104-316 substituted “Secretary of Defense” for “General Accounting Office” wherever appearing.

1991—Subsec. (a). Pub. L. 102-25, § 702(b)(2), struck out “of this subsection” after “clause (2) or (3)”.

Subsecs. (c), (f) to (h). Pub. L. 102-25, § 702(b)(1), struck out “of this section” after “subsection (b)” in subsecs. (c), (f), (g), and (h) and after “subsection (g)” in subsec. (h).

Subsec. (i)(1). Pub. L. 102-190 substituted “6522, or 9712” for “4713, 6522, 9712, or 9713”.

1974—Subsec. (b). Pub. L. 93-548, § 3(1)(A), inserted “ill,” after “injured.”.

Subsec. (b)(3). Pub. L. 93-548, § 3(1)(B), inserted “or ill” after “injured”.

Subsec. (c). Pub. L. 93-548, § 3(2), inserted “or ill” before “status”.

1972—Pub. L. 92-477, § 1(1), inserted “trailers; additional movements;” after “household and personal effects;” in section catchline.

Subsec. (a). Pub. L. 92-477, § 1(2), authorized at Government expense without cost limitation and under prescribed regulations the transportation of house trailers or mobile dwellings, including a privately owned motor vehicle, in place of household and personal effects of members in a missing status.

Subsec. (b). Pub. L. 92-477, § 1(3), authorized additional movements of and transportation for dependents and household and personal effects, or dependents and house trailer or mobile dwelling of members in a missing status for more than one year.

1968—Subsec. (b). Pub. L. 90-623 substituted “29” for “twenty-nine”.

Pub. L. 90-236 inserted provision authorizing non-temporary storage of household and personal effects of a member who is officially reported as absent for a period of more than 29 days in a missing status.

1967—Subsec. (a). Pub. L. 90-83 struck out “when it is located outside the United States, or in Alaska or Hawaii” after “shipped at United States expense”.

EFFECTIVE DATE OF 1998 AMENDMENT

For provisions relating to the applicability of amendment by Pub. L. 105-261, see section 653(e) of Pub. L. 105-261, set out as a note under section 2634 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 4 of Pub. L. 93-548 provided that: “The amendments made by section 3 of this Act [amending this section] shall apply with respect to members of the uniformed services incapacitated by illness on or after January 1, 1974.”

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 407 of this title.

§ 555. Secretarial review

(a) Except as provided in subsection (d), when a member of a uniformed service entitled to pay and allowances under section 552 of this title has

been in a missing status, and the official report of his death or of the circumstances of his absence has not been received by the Secretary concerned, he shall, before the end of a 12-month period in that status, have the case fully reviewed. After that review and the end of the 12-month period in a missing status, or after a later review which shall be made when warranted by information received or other circumstances, the Secretary concerned, or his designee, may—

(1) if the member can reasonably be presumed to be living, direct a continuance of his missing status; or

(2) make a finding of death.

(b) When a finding of death is made under subsection (a), it shall include the date death is presumed to have occurred for the purpose of—

(1) ending the crediting of pay and allowances;

(2) settlement of accounts; and

(3) payment of death gratuities.

That date is—

(A) the day after the day on which the 12-month period in a missing status ends; or

(B) if the missing status has been continued under subsection (a), the day determined by the Secretary concerned, or his designee.

(c) For the sole purpose of determining status under this section, a dependent of a member on active duty is treated as if he were a member. Any determination made by the Secretary concerned, or his designee, under this section is conclusive on all other departments and agencies of the United States. This subsection does not entitle a dependent to pay, allowances, or other compensation to which he is not otherwise entitled.

(d) This section does not apply in a case to which section 1502 of title 10 applies.

(Added Pub. L. 89-554, § 5(b), Sept. 6, 1966, 80 Stat. 628; amended Pub. L. 102-25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104-106, div. A, title V, § 569(c)(1), Feb. 10, 1996, 110 Stat. 351.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
555(a)	50 App. 1005 (1st and 2d sentences).	Mar. 7, 1942, ch. 166, § 5, 56 Stat. 145; Dec. 24, 1942, ch. 828, § 1 (3d par.), 56 Stat. 1093; Aug. 14, 1964, Pub. L. 88-428, § 1(4), 78 Stat. 437.
	50 App. 1014 (as applicable to § 1005 (1st sentence)).	Mar. 7, 1942, ch. 166, § 14 (as applicable to § 5 (1st sentence)), 56 Stat. 147; Apr. 4, 1953, ch. 17, § 1(e), 67 Stat. 21.
555(b)	50 App. 1005 (less 1st and 2d sentences).	
555(c)	50 App. 1009(b) (as applicable to § 1005).	Mar. 7, 1942, ch. 166, § 9(b) (as applicable to § 5); added Aug. 29, 1957, Pub. L. 85-217, § 1(c), 71 Stat. 492.

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

In subsection (a), the words “member of a uniformed service” are substituted for “person”. The words “in a missing status” and “in that status” are substituted for “absence” in three places. The words “Secretary

concerned” are substituted for “head of the department concerned” in two places. In the second sentence, the words “or his designee” are supplied on authority of 50 App. U.S.C. 1009 which is codified in part in revised section 556(a) of this chapter. In clause (1), the words “member” and “his” are substituted for “person’s” and “person”, respectively.

In subsection (b), the words “under subsection (a) of this section” are inserted for clarity. In clause (A), the words “day on which the 12-month period in a missing status ends” are substituted for “day of expiration of an absence of twelve months”. In clause (B), the words “under subsection (a) of this section” are substituted for “as hereinbefore authorized”. The words “Secretary concerned” are substituted for “head of the department concerned.” The words “or his designee” are supplied on authority of 50 App. U.S.C. 1009(a) which is codified in part in revised section 556(a) of this chapter.

In subsection (c), the first sentence is substituted for 50 App. U.S.C. 1009(b) (1st 31 words, as applicable to §1005). The words “Secretary concerned” are substituted for “head of the department concerned”. The words “or his designee” are supplied on authority of 50 App. U.S.C. 1009(a) which is codified in part in revised section 556(a) of this chapter. The words “departments and agencies of the United States” are substituted for “departments of the Government” in view of the definition of “department” in 50 App. U.S.C. 1001(d). The words “This subsection does not entitle” are substituted for “*Provided*, That nothing in this section shall be construed as conferring . . . any right”.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-106, §569(c)(1)(A), substituted “Except as provided in subsection (d), when” for “When”.

Subsec. (d). Pub. L. 104-106, §569(c)(1)(B), added subsec. (d).

1991—Subsec. (b). Pub. L. 102-25 struck out “of this section” after “subsection (a)” in two places.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 552, 553, 556, 557 of this title; title 10 section 701.

§ 556. Secretarial determinations

(a) The Secretary concerned, or his designee, may make any determination necessary to administer this chapter and, when so made, it is conclusive as to—

- (1) death or finding of death;
- (2) the fact of dependency under this chapter;
- (3) the fact of dependency for the purpose of paying six months’ death gratuities authorized by law;
- (4) the fact of dependency under any other law authorizing the payment of pay, allowances, or other emoluments to enlisted members of the armed forces, when the payments are contingent on dependency;
- (5) any other status covered by this chapter;
- (6) an essential date, including one on which evidence or information is received by the Secretary concerned; and
- (7) whether information received concerning a member of a uniformed service is to be construed and acted on as an official report of death.

Paragraphs (1), (5), (6), and (7) only apply with respect to a case to which section 555 of this title applies.

(b) When the Secretary concerned, in a case to which section 555 of this title applies, receives

information that he considers establishes conclusively the death of a member of a uniformed service, he shall, notwithstanding any earlier action relating to death or other status of the member, act on it as an official report of death. After the end of the 12-month period in a missing status prescribed by section 555 of this title, the Secretary concerned, or his designee, shall, when he considers that the information received, or a lapse of time without information, establishes a reasonable presumption that a member in a missing status is dead, make a finding of death.

(c) The Secretary concerned, or his designee, may determine the entitlement of a member to pay and allowances under this chapter, including credits and charges in his account, and that determination is conclusive. An account may not be charged or debited with an amount that a member captured, beleaguered, or besieged by a hostile force may receive or be entitled to receive from, or have placed to his credit by, the hostile force as pay, allowances, or other compensation.

(d) The Secretary concerned, or his designee, may, when warranted by the circumstances, reconsider a determination made under this chapter, and change or modify it.

(e) When the account of a member has been charged or debited with an allotment paid under this chapter, the amount so charged or debited shall be recredited to the account of the member if the Secretary concerned, or his designee, determines that the payment was induced by fraud or misrepresentation to which the member was not a party.

(f) Except an allotment for an unearned insurance premium, an allotment paid from pay and allowances of a member for the period he is entitled to pay and allowances under section 552 of this title may not be collected from the allottee as an overpayment when it was caused by delay in receiving evidence of death. An allotment payment for a period after the end of entitlement to pay and allowances under this chapter, or otherwise, which was caused by delay in receiving evidence of death, may not be collected from the allottee or charged against the pay of the deceased member.

(g) The Secretary concerned, or his designee, may waive the recovery of an erroneous payment or overpayment of an allotment to a dependent if he considers recovery is against equity and good conscience.

(h) For the sole purpose of determining pay under this section, a dependent of a member of a uniformed service on active duty is treated as if he were a member. Any determination made by the Secretary concerned, or his designee, under this section in a case to which section 555 of this title applies is conclusive on all other departments and agencies of the United States. This subsection does not entitle a dependent to pay, allowances, or other compensation to which he is not otherwise entitled.

(Added Pub. L. 89-554, §5(b), Sept. 6, 1966, 80 Stat. 629; amended Pub. L. 104-106, div. A, title V, §569(c)(4), Feb. 10, 1996, 110 Stat. 351.)